

APPEAL NO. 041075
FILED JUNE 23, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 22, 2004. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first, second, third, and fourth quarters and that the respondent (carrier) is relieved of liability for SIBs for the third quarter because of the claimant's failure to timely file an TWCC-52.

The claimant appealed each and every determination against her. The carrier responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The claimant appeals both the good faith requirements of Section 408.142(a)(4) and Rule 130.102(b)(2) and the direct result criteria of Section 408.142(a)(2) and Rule 130.102(b)(1).

The claimant's principal injury was a right eye injury which required several surgeries including surgeries for a detached retina and cataract extraction. The claimant's restriction is an inability to drive at night. During the first quarter qualifying period the claimant made several job searches but did not look for work during the first two months of the qualifying period because of pending eye surgery. See Rule 130.102(d)(5) and (e) for the requirements for a good faith job search effort. Nor did the claimant meet the requirements of Rule 130.102(d)(4). The hearing officer found that the claimant had not made a good faith effort to obtain employment commensurate with her ability to work but that the claimant's unemployment was a direct result of her impairment. The hearing officer's determination is supported by the evidence.

During the second quarter qualifying period the claimant did not conduct any job searches but did contact the Texas Rehabilitation Commission (TRC) and inquired about TRC services. An Individualized Plan for Employment in evidence was signed during the third quarter qualifying period but the claimant failed to enroll in the required program. See Rule 130.102(d)(2) for the requirements necessary for a good faith job search through TRC. The hearing officer determined that the claimant did not meet the requirements of Rule 130.102(d)(2) for either the second or the third quarter qualifying periods and that the claimant's unemployment was not a direct result of her impairment. Those determinations are supported by the evidence.

During the fourth quarter qualifying period the claimant made some 25 job contacts but the hearing officer commented that the claimant “failed to conduct a well structured job search plan.” See Rule 130.102(d)(5) and (e). The hearing officer’s determination is supported by the evidence.

The parties stipulated that the claimant has not filed a TWCC-52 for the third quarter and the claimant’s appeal gives us no clue what the claimant believes is incorrect about that determination.

We have reviewed the complained-of determinations and conclude that the hearing officer’s determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer’s decision and order.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Veronica L. Ruberto
Appeals Judge